

# **EXHIBIT 262**

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Page 1

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF TEXAS  
3 SHERMAN DIVISION  
4 THE STATE OF TEXAS, et al.,)  
5 Plaintiff, )  
6 VS. ) Civil Action No.  
7 ) 4:20-CV-00957-SDJ  
8 GOOGLE LLC, )  
9 Defendant. )

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9 ORAL AND VIDEOTAPED DEPOSITION OF  
10 THE CORPORATE REPRESENTATIVE OF THE STATE OF TEXAS,  
JUSTIN GORDON

APRIL 17, 2024

13 ORAL AND VIDEOTAPED DEPOSITION OF THE CORPORATE  
14 REPRESENTATIVE OF THE STATE OF TEXAS, JUSTIN GORDON,  
15 produced as a witness at the instance of the Defendant,  
16 and duly sworn, was taken in the above-styled and  
17 numbered cause on April 17, 2024, from 9:12 a.m. to  
18 8:34 p.m., before Donna Wright, CSR in and for the  
19 State of Texas, reported by machine shorthand, at the  
20 law offices of NORTON ROSE FULBRIGHT US LLP,  
21 98 San Jacinto Boulevard, Suite 1100, Austin, Texas,  
22 pursuant to the Federal Rules of Civil Procedure and  
23 the provisions stated on the record or attached hereto.

25 Job No. CS6654495

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26 ALSO PRESENT:  
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28 Alex Henthorn (via Zoom)  
29 Ayla Syed (via Zoom)  
30 Cole Pritchett (via Zoom)  
31 Lauren Schultz (via Zoom)  
32 Melonie DeRose (via Zoom)

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1 identified in Interrogatory 5. I would refer you to  
2 that interrogatory as opposed to limiting it to the  
3 description that you provided.

4 Q. Let me go ahead and mark as Exhibit 4 the  
5 Sixth Amended Interrogatory Responses.

6 (Exhibit 4 marked)

7 Q. And I know you have this in your binder, but  
8 that way, just for our record, it's probably easier to  
9 have a separate -- a separate --

10 A. Yes, sir. No problem.

11 Q. So do you agree Exhibit -- Exhibit --  
12 Exhibit 4 is a copy of the Sixth Amended Interrogatory  
13 Responses?

14 A. It looks like it. I'm just checking to make  
15 sure that they are all there.

16 Yes.

17 Q. And if we look at the first bullet point under  
18 Interrogatory No. 5 on Page 14, are you there?

19 A. Yes, sir.

20 Q. Okay. And that says -- the first sentence of  
21 that bullet point says, "Google's unlawful conduct has  
22 inflicted harm to businesses and individuals in the  
23 plaintiff states, to the respective economies of the  
24 plaintiff states, and to the general welfare of the  
25 plaintiff states," right?

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1 A. Yes, that's the first sentence.

2 Q. And how widespread is this impact in the State  
3 of Texas?

4 A. What do you mean by "widespread"?

5 Q. How widespread is this -- the harm that's  
6 alleged here?

7 A. Well, it affects the entire state, so I would  
8 say statewide.

9 Q. Has that been measured in any way?

10 A. I'm not aware of a specific measurement.

11 Q. Did you do anything before today to look into  
12 whether the harm has been measured in any way?

13 A. I confirmed that a lot of the information  
14 pertaining to calculations is pending subject to expert  
15 testimony that is upcoming. But beyond that, I did not  
16 personally look into measuring those amounts.

17 Q. Does Texas contend that publishers and  
18 advertisers make up a substantial segment of the Texas  
19 population?

20 MR. COLLIER: Objection, form.

21 THE WITNESS: What would you define as  
22 "substantial"?

23 Q. (BY MR. AYCOCK) Does Texas -- does Texas  
24 believe that they make up a substantial portion of the  
25 population? Is that Texas' position or not?

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1 Q. It says, "Reference Sheet of Claims"?

2 A. Yes.

3 Q. Okay. And what page are you on?

4 A. The pages aren't numbered, but it would be --  
5 I'll tell you in a second.

6 Right now I'm on Page 4.

7 Q. Okay. So if you can walk me through your  
8 understanding, then, of the consumers in the State of  
9 Texas who are alleged to have been harmed by Google's  
10 conduct.

11 MR. COLLIER: Objection, form.

12 THE WITNESS: I have left the tab, and  
13 now I'm reviewing the interrogatory responses.

14 So, for example, on Page 15 of our  
15 interrogatory response to No. 5, we have referenced  
16 that, "Google conduct has caused and continues to cause  
17 harm to small and large businesses in the plaintiff  
18 states with follow-on effects to consumers, i.e.,  
19 plaintiff state citizens. The impacts to the plaintiff  
20 states by the following conduct with Google are broad  
21 and manifest."

22 Then we describe the harm arising from  
23 unlawful tying.

24 THE REPORTER: Unlawful?

25 THE WITNESS: Tying, T-Y-I-N-G.

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1 The harm from dynamic allocation, the  
2 harm from enhanced dynamic allocation, the harm from  
3 dynamic revenue sharing, the harm from reserved price  
4 optimization, the harm from Bernanke and its multiple  
5 forms, the harm from header bidding submission, the  
6 harm from uniform pricing rules.

7 There we conclude that, "Each form of  
8 anticompetitive and deceptive conduct discussed above  
9 caused harm to businesses in each plaintiff state,  
10 small, medium, and large, that rely on display  
11 advertising. Google's conduct has resulted in higher  
12 prices and lower quality products for participants in  
13 the ad tech markets and foreclose competition that  
14 would bring about non-Google product alternatives.

15 "In turn, the plaintiff states' economies  
16 in general have not realized the benefits of  
17 competition and instead suffered from stifled  
18 innovation and investment in display advertising  
19 space."

20 And this is where we get to the portion  
21 about consumers.

22 "Furthermore, and as discussed above,  
23 Google's unlawful conduct also extracts harm from  
24 consumers, i.e., citizens, in the plaintiff states and  
25 negatively affected the general welfare. The use of

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1 the Internet in the United States and in the plaintiff  
2 states is pervasive and almost universally adopted.  
3 That means that anyone who uses the Internet, i.e.,  
4 consumers in the plaintiff states, interacts with  
5 display advertising.

6 "Consumers benefit from competent  
7 decision in the form of choice and innovation. The  
8 cost savings realized by advertisers and publishers  
9 could be passed on to consumers, such as lowering  
10 subscription fees and removing pay walls.

11 "At the same time, small and large  
12 businesses would need to spend less on advertising to  
13 generate business. Those savings would benefit  
14 consumers because businesses could, in turn, lower the  
15 price of their goods and services. Increased commerce  
16 drives economic growth in the plaintiff states and  
17 improves the general welfare. Google's anticompetitive  
18 and deceptive conduct inhibits that progress, growth,  
19 and welfare promotion."

20 Q. I'm going to hand you a document I have marked  
21 as Exhibit 5.

22 (Exhibit 5 marked)

23 Q. Do you recognize this as a document filed in  
24 this case titled "Plaintiff States' Advisory Regarding  
25 Relief Sought"?

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF TEXAS  
3 SHERMAN DIVISION

4 THE STATE OF TEXAS, et al.,)

5 Plaintiffs, )

6 VS. )

7 GOOGLE LLC, ) Civil Action No.  
8 ) 4:20-CV-00957-SDJ

9 Defendant. )

10

11 REPORTER'S CERTIFICATION OF THE ORAL AND VIDEOTAPED  
12 DEPOSITION OF THE CORPORATE REPRESENTATIVE OF  
13 THE STATE OF TEXAS, JUSTIN GORDON

14 APRIL 17, 2024

15 I, Donna Wright, a Certified Shorthand  
16 Reporter and Notary Public in and for the State of  
17 Texas, hereby certify to the following:

18 That the witness, JUSTIN GORDON, was duly  
19 sworn by the officer and that the transcript of the  
20 oral deposition is a true record of the testimony given  
21 by the witness;

22 That the original deposition was delivered to  
23 Mr. Marc Collier;

24 That a copy of this certificate was served on  
25 all parties and/or the witness shown herein on  
\_\_\_\_\_;

I further certify that pursuant to FRCP Rule  
30(3) that the signature of the deponent:

\_\_\_\_\_ was requested by the deponent or a party

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1 before the completion of the deposition and that the  
2 signature is to be before any notary public and  
3 returned within 30 days from date of receipt of the  
4 transcript. If returned, the attached Changes and  
5 Signature Page contains any changes and the reasons  
6 therefore:

7 \_\_\_\_\_ was not requested by the deponent or a  
8 party before the completion of the deposition.

9 I further certify that I am neither counsel  
10 for, related to, nor employed by any of the parties or  
11 attorneys in the action in which this proceeding was  
12 taken, and further that I am not financially or  
13 otherwise interested in the outcome of the action.

14 Certified to by me on this, the 18th day of  
15 April, 2024.



19 DONNA WRIGHT, Texas CSR 1971

20 Expiration Date: 11/30/24

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